

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION

Tyrone Lamar Roberson, #191327,)	C/A NO. 8:06-1519-CMC
)	
Plaintiff,)	
)	
and)	OPINION and ORDER
)	
Sharon L. Brown (Roberson),)	
)	
Movant,)	
)	
v.)	
)	
Warden A.J. Padula, of Lee Correctional)	
Institution, and Ms. Barbara Ricketson,)	
Mail Room Personnel,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint alleging violations of 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation ("Report"). On November 20, 2007, the Magistrate Judge issued a Report recommending that Plaintiff's complaint be dismissed for failure to exhaust his administrative remedies, and that all pending motions be deemed moot. In the alternative, the Magistrate Judge recommended granting Defendant's motion for summary judgment. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report on December 6, 2007.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Plaintiff's objections contend that he is not required to exhaust administrative remedies because he seeks monetary damages. This position is foreclosed by the Supreme Court's decision in *Booth v. Churner*, 532 U.S. 731 (2001).¹

This matter is **dismissed without prejudice** for Plaintiff's failure to exhaust his administrative remedies. All pending motions are hereby **moot**. To the extent that Plaintiff asserts state law causes of action, this court declines to exercise jurisdiction over such causes of action and they are dismissed without prejudice.

¹Plaintiff also objects to the Magistrate Judge's recommendation that Movant Sharon L. Brown (Roberson) not be added as a plaintiff to this action. Plaintiff may not object to the Report on behalf of Ms. Brown, who, if she objected, should have filed her own material in this case.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
December 12, 2007